

### **Remarks/Arguments**

In the non-final Office Action dated August 22, 2008, it is noted that claims 1-10 are pending; that objection has been raised with respect to the specification; that claim 10 stands rejected under 35 U.S.C. §112; that claims 1, 3, and 9 stand rejected under 35 U.S.C. §102; that claims 2 and 4-8 have been identified as being allowable if rewritten in independent form; and that the drawings filed on April 5, 2006 have been accepted by the Examiner.

By this response, claims 2, 4, and 6 have been rewritten in independent form and claim 10 has been cancelled. Also, the indefinite article at the beginning of each of claims 3, 5, and 7-9 has been changed to a definite article. No new matter has been added.

### ***Allowable Subject Matter***

Claims 2 and 4-8 have been objected to as being dependent from a rejected base claim. These claims would be allowable if rewritten in independent form to include the limitations of their respective base claim and any intervening claims. Applicant's representative thanks the Examiner for identifying allowable subject matter.

Claims 2 and 6 depend directly from claim 1 and each has been rewritten in independent form to include the limitations of claim 1. Claim 4 depends indirectly from claim 1 via claim 3. As such, claim 4 has been rewritten in independent form to include the limitations of claims 1 and 3.

Since claims 2, 4, and 6 have been rewritten in independent form as shown and described above, it is submitted that these claims and the claims dependent thereon are now allowable. Applicant's representative thanks the Examiner for identifying allowable subject matter. In view of these amendments to the claims, it is requested that the objection to these claims be withdrawn and that these claims be identified as "allowed".

### ***Objection to the Specification***

Objection has been made against the specification in the present Office Action for lacking section headings. Applicant respectfully traverses this objection.

Section headings are not statutorily required for filing a non-provisional patent application under 35 U.S.C. §111(a), but per 37 C.F.R. §1.51(d) are only guidelines that are suggested for applicant's use. Furthermore, the USPTO has stated that it will not require conformance with the format set forth in 37 C.F.R. §1.77. See Miscellaneous Changes in Patent

*Practice*, Response to comments 17 and 18 (Official Gazette, August 13, 1996) [Docket No: 950620162-6014-02] RIN 0651-AA75 where it was stated that, "Section 1.77 is permissive rather than mandatory. ... [T]he Office will not require any application to comply with the format set forth in 1.77". Applicant respectfully declines to make any amendments to the specification in this regard. Withdrawal of this objection to the specification is also respectfully requested.

***Rejection of Claim 10 under 35 U.S.C. §112***

Claim 10 stands rejected under 35 U.S.C. §112, first and second paragraphs. Since claim 10 has been cancelled, it is believed that this rejection is moot.

***Cited Art***

The following reference has been cited and applied against the claims in the present Office Action: UK Patent Application No. GB2349536A to Shimizu et al. (hereinafter "*Shimizu*").

***Rejection of Claims 1, 3, and 9 under 35 U.S.C. §102***

Claims 1, 3, and 9 stand rejected under 35 U.S.C. §102 as being anticipated by Shimizu. This rejection is respectfully traversed.

Claim 1 is an independent method claim. Claims 3 and 9 depend directly from claim 1. Claim 1 calls, in part, for "excluding from the watermark decoding process, the given part, if its quality metric is lower than the threshold." This limitation is not found in Shimizu.

Shimizu accumulates at least two frames in a buffer and compares the accumulated frame to a threshold to determine whether an embedded watermark can be properly detected. *See Shimizu at page 3, lines 13-16, page 4, lines 9-14, and Figure 2.* If the threshold is not reached, Shimizu accumulates a new frame with the already accumulated frames and tests that larger accumulation of frames against the threshold. *See Shimizu at page 6, line 38 through page 7, line 14 and Figure 4, particularly note the iteration from step 460 (NO) through steps 430-450.*

In contrast to Shimizu, the present invention is defined as excluding the given part of the data from the watermark decoding process if it is determined that the quality metric calculated for that given part is below a threshold. Shimizu does not exclude any frame from his watermark decoding process. Instead, he continues to accumulate one frame on top of another until the

threshold has been exceeded for the set of accumulated frames. Shimizu is devoid of any suggestion that the accumulated frames should, at some point, be discarded or excluded from the decoding process. Shimizu is focused on utilizing every frame in the decoding process by “increasing the number of accumulated frames” to achieve his result. *See Shimizu at page 4, line 38 through page 5, line 2.*

In light of these remarks, it is believed that independent claim 1 and the claims dependent thereon would not have been anticipated by Shimizu and would not have been obvious to a person of ordinary skill in the art upon a reading of Shimizu, either separately or in combination with the known art. Thus, it is submitted that claims 1, 3, and 9 are allowable under 35 U.S.C. §102 and 35 U.S.C. §103. Withdrawal of this rejection is respectfully requested.

### ***Conclusion***

In view of the foregoing, it is respectfully submitted that all the claims pending in this patent application are in condition for allowance. Reconsideration and allowance of all the claims are respectfully solicited.

In the event there are any errors with respect to the fees for this response or any other papers related to this response, the Director is hereby given permission to charge any shortages and credit any overcharges of any fees required for this submission to Deposit Account No. 14-1270.

Respectfully submitted,  
/Brian S. Myers/

By: Brian S. Myers  
Registration No. 46,947

For: Larry Liberchuk  
Registration No. 40,352

### **Mail all correspondence to:**

Larry Liberchuk, Registration No. 40,352  
US PHILIPS CORPORATION  
P.O. Box 3001  
Briarcliff Manor, NY 10510-8001